

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15929 of Addis, Inc., pursuant to 11 DCMR 3107.2, for a variance from the 900 square feet of lot area per apartment requirement (Subsection 401.3) to convert a flat into a three-unit apartment building in an R-4 District at premises 1406 10th Street, N.W. (Square 338, Lot 30).

HEARING DATE: March 23, 1994
DECISION DATE: April 6, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located at 1406 10th Street, N.W., on the west side of the street between O and P Streets, N.W. The site is zoned R-4.

2. The site comprises 2,325 square feet of land area and is improved with a three-story semi-detached structure which is presently vacant. The site abuts 10-foot wide public alleys to the west (rear) and south, and a row dwelling to the north. It has a 25-foot wide frontage on 10th Street, N.W. The site is rectangular in shape, except at the southwest corner where the property line is slightly angled to create a maneuvering space for vehicles at the intersection of the two public alleys.

3. The site is located in an R-4 District. The R-4 District permits matter of right development of residential uses, including detached, semi-detached, and row single-family dwellings, and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height limit of stories/40 feet. Conversions of existing buildings to apartments are allowed for lots with a minimum lot area of 900 square feet per dwelling unit.

4. The existing structure was originally constructed in the early part of this century. The building was badly deteriorated and had been vacant for a number of years when the applicant bought it one year ago. It was last used as a rooming house. The applicant is currently renovating the structure and is proposing to convert it to a three-unit apartment building with one dwelling unit on each floor (two, two-bedroom units and one, one-bedroom unit). The existing structure contains 3,375 square feet of gross floor area.

5. The subject property consists of 2,325 square feet of land area, 375 square feet less than the 2,700 square feet that would be required for three apartment units in an R-4 zone

district. The applicant is requesting a variance from the minimum lot area requirement of 900 square feet of land area per apartment unit.

6. By a statement submitted to the record and through testimony at the hearing, the two owners of Addis, Inc., the applicant, stated that constraints due to the size, shape and location of the lot make it impossible to expand the lot in order to comply with the lot area requirement and cause the site to have exceptional conditions which constitute a practical difficulty. The owners indicated that they believe that their proposal would have no adverse area impacts resulting from an additional unit within the existing structure. They also indicated that their neighbors strongly support the proposal because they (the neighbors) believe that the renovation of the existing structure in such a way would result in better security, safety and stability for the neighborhood.

7. The owners further stated that they have compared their proposal with the buildings in the neighborhood and have found that their proposal for a three-unit building is consistent with the Zoning Regulations. They indicated that they are of the opinion that the proposed conversion would have no negative impact on the Zoning Regulations. They indicated that they are of the opinion that the proposed conversion would not have negative impacts with regard to increased density due to the development of the subject property.

8. The owners also stated that as part of maintaining the interest of the public good, they propose to increase the comfort quality of the interior living conditions by fully furnishing each unit with late-model appliances. They further stated that they plan to enhance the outdoor living space on the property and its surroundings by providing landscaping, by installing decorative fencing and exterior entrance lights, by designating a trash storage area, and by providing two off-street parking spaces. The owners concluded by indicating their conviction to make sure that the proposed conversion will benefit the neighborhood both in the quality and in the nature of the service that the building will provide.

9. By report dated March 16, 1994, and through testimony at the hearing, the Office of Planning (OP) recommended denial of the application. The OP stated that in its opinion, the renovation of the existing structure would result in better security, safety and stability for the neighborhood. In addition, adverse area impacts resulting from an additional unit within the existing structure would be minimal or nonexistent. However, the applicant is requesting an area variance, the granting of which requires the introduction of substantial evidence of a practical difficulty arising out of some extraordinary or exceptional condition in the

property itself. The Office of Planning finds no extraordinary or exceptional condition inherent in the property which would justify the variances requested.

The Office of Planning also stated that the previous use of the structure as a rooming house is a matter of right use in an R-4 District. The applicant can continue to use the structure as a rooming house with a valid certificate of occupancy. The building can also be converted to a flat which is a permitted use in the R-4 District. The proposed conversion of the existing structure to three apartment units would not be in keeping with the R-4 District regulations and would impair the intent, purpose, and integrity of the R-4 District regulations by increasing the density of development on the subject property.

10. By report dated March 21, 1994, and through testimony at the hearing, Advisory Neighborhood Commission (ANC) 2F indicated that it has voted unanimously to support the application.

11. Two neighbors testified in support of the application.

12. Three neighbors testified in opposition to the application. They expressed their concern that the proposal to convert the subject building into an apartment building would undermine the community's efforts to preserve the single-family residential nature of the neighborhood. They contend that the proposed conversion of the existing structure to an apartment building would threaten the integrity of the neighborhood and the intent and purpose of the R-4 District regulations.

13. Several letters and petitions both in support of and in opposition to the application were submitted into the record of the case.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds the following:

1. The 50 square feet of land at the southwest corner of the property which was added to the abutting public alley at the rear is not large enough to make up for the difference between the minimum zoning requirement and the existing land area of the site. As such, the condition at the southwest corner of the property does not constitute a practical difficulty or exceptional condition that is inherent in the property which would justify the requested variance.

2. There are at least two matter of right uses available to the owner of the property to use the existing building without the need for variance relief.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking a variance from the 900 square feet of land area per apartment unit requirement to convert a flat to a three-unit apartment house in an R-4 District.

Granting such a variance, require a showing through substantial evidence of a practical difficulty upon the owners arising out of some unique or exceptional condition of the property such as, exceptional narrowness, shallowness, shape or topographical condition. In addition, the Board must find that granting the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose, and integrity of the zone plan.

The Board concludes that the applicant has not met this burden of proof. The applicant has failed to demonstrate how complying with the Zoning Regulations will create a practical difficulty for the owners. The applicant has not introduced any evidence of a extraordinary or exceptional situation or condition inherent in the property which would justify the variance relief requested.

The Board further concludes that granting the application will be a substantial detriment to the public good and will substantially impair the intent, purpose, and integrity of the zone plan.

The Board has accorded ANC-2F the "great weight" to which it is entitled.

In accordance with the above analysis, the Board ORDERS that this application is hereby DENIED.


VOTE: 3-0 (George Evans, Laura M. Richards, Craig Ellis to deny; Angel F. Clarens not voting, not having heard the case).

THIS ORDER WAS ISSUED AS A PROPOSED ORDER PURSUANT TO THE PROVISIONS OF D.C. CODE SECTION 1-1509(d). THE PROPOSED ORDER WAS SENT TO ALL PARTIES ON APRIL 17, 1997. THE FILING DEADLINE FOR EXCEPTIONS AND ARGUMENTS WAS MAY 19, 1997. NO PARTY TO THIS APPLICATION FILED EXCEPTIONS OR ARGUMENTS RELATING TO THE PROPOSED ORDER, THEREFORE, THE BOARD OF ZONING ADJUSTMENT ADOPTS AND ISSUED THIS ORDER AS ITS FINAL ORDER IN THIS CASE.

BZA APPLICATION NO. 15929
PAGE NO. 5

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: MAY 29 1997

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15929

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 29 1997 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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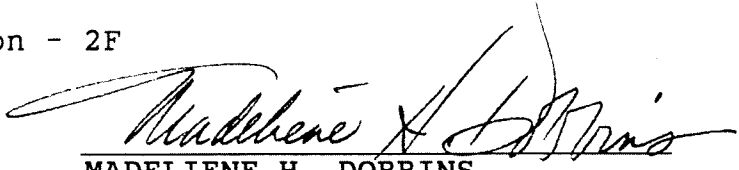
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MADELIENE H. DOBBINS
Director

DATE: MAY 29 1997

expattest/ljp